



PTO/SB/33 (07-06)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays an OMB control number.

Docket Number (Optional)
9685-000001

PRE-APPEAL BRIEF REQUEST FOR REVIEW

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

On November 3, 2006

Signature

Typed or printed name Michael Malinzak

Application Number
09/923,645Filed
August 7, 2001First Named Inventor
Henry E. ArgasinskiArt Unit
2153Examiner
Yasin M. Barqadle

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

 attorney or agent of record.

Registration number 43,770.

 attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

Michael Malinzak

Typed or printed name

(248) 641-1600

Telephone number

November 3, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

 *Total of _____ forms are submitted.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/923,645

Filing Date: August 7, 2001

Applicant: Henry E. Argasinski

Group Art Unit: 2153

Examiner: Yasin M. Barqadle

Title: METHOD AND SYSTEM FOR VIRTUAL WINDOW
SHOPPING

Attorney Docket: 9685-000001

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW – SUPPLEMENTAL PAGES

A. Rejection Under 35 U.S.C. § 102(e)

The Examiner has rejected claims 2-9, 11-13, 15-17, and 21-23 under 35 U.S.C. § 102(e) as being anticipated by Ferreira U.S. Pub. No. 2001/0034661. Clear errors are present in the Examiner's rejections. Each of the independent claims recites limitations that are not met by the reference. Specifically, Ferreira does not teach or suggest scrolling a point of view left or right by moving the point of view in a direction along a city block while maintaining the point of view directed toward a group of adjacent storefronts along the city block.

Claim 21, for example, recites a method comprising transposing an actual image of a group of adjacent storefronts along a city block as a navigable image within an internet site and allowing a user to scroll a point of view of said navigable image left or right within said internet site by moving said point of view of said navigable image in a direction along said city block while maintaining said point of view directed toward said group of adjacent storefronts.

Compared to Ferreira, the following aspects of these claim limitations are distinctive: the “point of view” is moved in a direction along the city block; and the “point of view” is directed toward the group of adjacent storefronts while it is moved. As supported by the specification, it is the movement of the point of view in this manner, in a direction along the city block while directed toward the city block, that gives the viewer the impression of walking down a street while viewing the storefronts. Specification, paragraph [0015.1]. *See also*, Claim 23 which includes the limitation “...to give said viewer an impression of walking down a street or strolling through a mall while viewing said actual store window displays.”

Ferreira describes movement of a stationary camera around a fixed point. See Ferreira utility application, p. 6, [0071]; and Ferreira provisional, p. 5. Specifically, the Ferreira utility application (U.S. Pub. No. 2001/0034661) provides:

The navigation may take place in a smooth and continuous manner, giving the user the impression of actual movement. *That is, the user may feel that he or she is actually moving his or her head to get a different view of the city block.*

Ferreira utility app., p. 6, [0071] (emphasis added).

The Ferreira provisional application similarly provides:

"Web-surfers will be able to use their mouse (or the arrows on their keyboard) to move the camera around. Simply clicking on the image and holding down either the left or right mouse button will alter the camera's perspective and create the appearance of movement. Camera functionality will include: pan left, pan right, pan up, and pan down, or any combination thereof, and zoom in and out."

Ferreira provisional app., p. 5 (emphasis added).

The camera movement described by Ferreira is "around" a fixed camera point. This is clear from the camera controls: pan left, pan right, pan up, and pan down. In Ferreira, when the camera pans up, the camera simply tilts back and points upward, as opposed to the camera raising off the ground toward the sky. When the camera pans down, the camera simply tilts forward and points downward, as opposed to the camera dropping down into the ground. Likewise, when the camera pans left or pans right, the camera simply rotates to the left or to the right from the viewer's fixed location. As made clear by the utility application, this fixed point rotational movement is akin to moving the viewer's head around.

This is not the function of the method recited by claim 21, which recites allowing a user to scroll a point of view left or right by moving the point of view in a direction along a city block while maintaining the point of view directed toward a group of adjacent storefronts. In other words, rotation of a camera on a fixed point, *even if done proximate to adjacent storefronts*, does not amount to movement of the "point of view" along a city block, right or left.

To move the camera to another fixed point location in Ferreira, there is a hyperlink at the end of every block or "street horizon." See Ferreira provisional application, p. 3. Once the camera is relocated, the camera may again be rotated

around the new fixed point. See Ferreira provisional application, p. 3, 5. This type of movement also does not teach or suggest scrolling a point of view left or right by moving the point of view in a direction along a city block while maintaining the point of view directed toward a group of adjacent storefronts.

Ferreira also teaches a zoom operation. See Ferreira provisional application, p. 5; and Ferreira utility app., p. 6, [0071]. The Ferreira zoom operation is not anticipatory of scrolling a navigable image left or right by moving a point of view in a direction along a city block while maintaining the point of view directed toward a group of adjacent storefronts. During a zoom operation, the point of view remains stationary, while a center portion of the image is enlarged. Such an operation does not include movement of a point of view along a city block or scrolling left or right.

For these reasons, Ferreira does not teach or suggest each and every limitation of claim 21. To anticipate a claim, a reference must teach each and every element of the claim. MPEP § 2131. Further, the “identical invention must be shown in as complete detail as is contained in the claim.” *Id.*, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). In addition, the “elements must be arranged as required by the claim.” MPEP § 2131, citing *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990).

For reasons similar to those discussed above for claim 21, Ferreira fails to teach each and every element of claims 22 and 23. Claims 2-9, 11-13, and 15-17 each directly or indirectly depend from claims 21, 22, or 23, which define over Ferreira as discussed above. Therefore, Ferreira fails to teach each and every element of claims 2-9, 11-13, and 15-17.

B. Applicant predates any new matter not disclosed in Ferreira’s provisional application no. 60/182,282.

Applicant completed the invention in this country prior to February 14, 2001, which is the effective date of U.S. Pat. Pub. No. 2001/0034661 to Ferreira. See Declaration of January 18, 2005. To the extent the Ferreira utility application includes new matter not disclosed in the provisional application, Applicant pre-dates the new matter not disclosed in Ferreira's provisional application. See Amendment, dated September 5, 2006, pp. 8, 9.

C. Applicant's claim amendments of September 5, 2006 comply with 37 CFR § 1.116 and MPEP § 714.12 and should be entered.

During the telephone interview of August 29, 2006, the Examiner – for the first time – argued that Ferreira's zooming operation amounts to scrolling the point of view of an image both left and right, as the left and right edges of the image during a zoom operation are moving away from the center. Applicant respectfully disagrees that the Ferreira zoom operation is anticipatory, as the Ferreira feature described by the Examiner focuses or enlarges the image, as opposed to scrolling the point of view of the image. In the Amendment, the Applicant clarified the claims to separate the recitation of scrolling a point of view from left to right from the recitation of scrolling a point of view from right to left. The Amendments did not change the scope of such claims and complied with 37 CFR § 1.116 and MPEP § 714.12. As such, the Amendments should have been entered and considered on the merits. See Amendment, dated September 5, 2006, pp. 7, 8.

Respectfully submitted,

Dated: September 5, 2006

By:


Michael Malinak, Reg. No. 43,770
Michael Doerr, Reg. No. 52,825